

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

MISSOURI COALITION FOR THE)
ENVIRONMENT FOUNDATION,)
a non-profit corporation,)
)
Plaintiff,) Case No. 2:10-cv-04169-NKL
)
vs.)
)
LISA P. JACKSON, Administrator of the)
United States Environmental Protection)
Agency; and THE UNITED STATES)
ENVIRONMENTAL PROTECTION)
AGENCY)
)
Defendants.)

ORDER

Pending before the Court is Plaintiff Missouri Coalition for the Environment Foundation’s (“Coalition”) Motion to Strike Response Filed by Missouri Department of Natural Resources and/or Opposition to Relief Sought by Response [Doc. # 44]. For the following reasons, the Court GRANTS the Coalition’s Motion.

The Missouri Department of Natural Resources (“Department”) was granted permission by the Court to intervene in this action as a non-aligned party. [Doc. # 27]. The Department represented in its motion to intervene that its interests, that were not represented by the parties, were as follows:

The Department is working to promulgate a rule that would protect the state’s waters while complying with the strictures of the Clean Water Act, and the Department has already expended a significant amount of resources toward

this rule. This effort will be adversely affected if the standards proposed by the Coalition to EPA do not take into account the Department's work towards establishing its own rule.

[Doc. # 26, at 9]. Neither the Coalition nor the EPA objected to the Department's motion. [Doc. # 26, at 1]. In its Response to Motions for Summary Judgment [Doc. # 37], the Department reiterates this interest and provided the Court with an affidavit detailing the Department's projected schedule for its water quality standards rulemaking process. [Doc. # 37-1]. The Department also asserts: "Any order issued by the court should give the Department the opportunity to complete its rulemaking in advance of any federal action that would ultimately lead to the United States imposing standards on the state." [Doc. # 37, at 4-5].

In its response, the Department (1) provides the Court and the parties with information as to the projected schedule of its rulemaking proceedings, and (2) requests that the Court provide no relief that will affect its rulemaking process. The Court finds that the Department's submission to the Court of its projected schedule of its rulemaking proceedings comports with its previously stated interests as an intervenor in this action. However, the Court finds that the Department's request that any relief should be limited in temporal scope, is at odds with the Coalition's position. Thus, the Department has exceeded the boundaries of its permission to intervene in this action as a non-aligned party and its request is not properly before the Court.

For the foregoing reasons, the Court GRANTS the alternative relief sought by the Coalition in its Motion. [Doc. # 44]. As the Department's request to limit the possible relief

available to the Coalition is not properly before the Court, it is denied.

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Judge

Dated: August 9, 2011
Jefferson City, Missouri